

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P. No.S-407 of 2024

DATE

ORDER WITH SIGNATURE OF JUDGE

For hearing of M.A. No. 269 of 2025

27.02.2026

Mr. Aqeel Ahmed Siddiqui, Advocate for Petitioners
Barrister Jawad Ahmed Qureshi, Advocate for Respondent No.1
Mr. Allah Bachayo Soomro, Addl. AG Sindh

Through the listed application, the Petitioners seek restoration of the Petition by recalling the order dated 10.02.2025, whereby the Petition was dismissed for non-prosecution.

2. Pursuant to notice, learned counsel for Respondent No.1 has filed certified true copies of the execution proceedings arising out of the Rent Application, submitted under his statement at Serial Nos. 1 to 7, which are taken on record.

3. Learned counsel for the Petitioners submits that the Petition was dismissed due to his non-appearance as he was engaged before another Bench. He has referred to the Petitioner's Affidavit and the cause list of 10.02.2025 to substantiate his explanation. He further contends that although possession has been delivered to Respondent No.1 through the Executing Court, the Petitioners have challenged the legality of the underlying eviction order, which according to him still requires adjudication on merits.

4. Conversely, learned counsel for Respondent No.1 opposes the application and submits that the Petition has already become infructuous as possession has been handed over to Respondent No.1 and the concurrent findings of the Rent Controller and Appellate Authority on the grounds of default as well as personal bona fide need stand satisfied. He further submits that the interim order dated 07.10.2024 was conditional upon timely deposit of monthly rent, a condition which the Petitioners failed to comply with.

5. Learned Additional Advocate General Sindh supports the application only to the extent that it is within time and submits that the explanation offered by the Petitioners may be considered.

6. I have heard the learned counsel for the parties and examined the record. The impugned order dated 10.02.2025 reflects two reasons for dismissal: the non-appearance of the Petitioners' counsel despite second call and the fact that the Petition had become

infructuous due to delivery of possession to Respondent No.1. The Petitioner's Affidavit merely states that counsel was busy before another Bench. When confronted with the fact that the matter was called twice, learned counsel reiterated that he remained occupied and conceded that he neither informed the Court nor made alternate arrangements. Such an explanation, without any supporting material or reasonable justification, does not constitute sufficient cause for recalling an order, particularly when the Court had already afforded a second call.

7. The record further shows that the Executing Court, through order dated 01.10.2024, has recorded satisfaction of the order and possession has been delivered to Respondent No.1. The Petitioners seek restoration of the Petition ostensibly to challenge the underlying eviction order. However, the statutory framework under the Sindh Rented Premises Ordinance, 1979, particularly Section 15(2), provides a limited mechanism for restoration of possession only where eviction is ordered exclusively on the ground of personal bona fide need. In the present case, the eviction was also founded on the independent ground of default, which takes the matter outside the purview of Section 15(2). Even otherwise, once the order has been executed and possession delivered, the constitutional jurisdiction cannot be invoked to undo the consequences of execution proceedings.

8. The interim order dated 07.10.2024 was expressly conditional upon timely deposit of monthly rent. When asked to specify the last date of compliance, learned counsel for the Petitioners was unable to provide any satisfactory answer. The record prima facie indicates non-compliance with the injunctive condition. A party seeking equitable relief must demonstrate clean hands; failure to comply with a conditional order disentitles the Petitioners from seeking discretionary relief under Article 199 of the Constitution.

9. In these circumstances, the explanation for non-appearance is neither convincing nor sufficient. The Petition has already become infructuous due to satisfaction of the order and delivery of possession. The statutory framework does not support the relief sought and the Petitioners have failed to comply with the conditional interim order. No ground exists for recalling the order dated 10.02.2025. The listed application is accordingly **dismissed**.

JUDGE